

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BARRETT,
Petitioner,

No. C 09-00908 SBA (PR)

ORDER OF TRANSFER

v.

A. A. LAMARQUE, Warden, et al.,
Respondents.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus in which he challenges the execution of his sentence. He has paid the full filing fee. He has also filed a motion for appointment of counsel.

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. See id. Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner is incarcerated at Corcoran State Prison, which lies within the venue of the Eastern District of California. See 28 U.S.C. § 84. Because Petitioner challenges the execution of his

1 sentence, the Court hereby ORDERS that pursuant to 28 U.S.C. § 1404(a) and Habeas L.R. 2254-
2 3(b), and in the interests of justice, this petition be TRANSFERRED to the United States District
3 Court for the Eastern District of California.

4 All pending motions are TERMINATED on this Court's docket as no longer pending in this
5 district.

6 This Order terminates Docket no. 2.

7 IT IS SO ORDERED.

8 DATED: 5/27/09


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BARRETT,
Plaintiff,

v.

A.A. LAMARQUE et al,
Defendant.

Case Number: CV09-00908 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 28, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert E. Barrett T13701
Corcoran State Prison
P.O. Box 3471
Corcoran, CA 93212

Dated: May 28, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk